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AMENDED IN SENATE JULY 14, 2009

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AMENDED IN ASSEMBLY APRIL 15, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 571

Introduced by Assembly Member Saldana

February 25, 2009

An act to amend ~~Section 8254~~ *Sections 8254 and 9010* of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing.

LEGISLATIVE COUNSEL'S DIGEST

AB 571, as amended, Saldana. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is \$265.

This bill, commencing April 1, 2010, and until March 31, 2015, would ~~increase the permit fee for a lobster permit to \$565. Under the bill,~~ *impose, in addition to the permit fee, a supplemental fee of \$300 of the* ~~permit fee would,~~ to be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account,

which the bill would create *in the Fish and Game Preservation Fund*. The bill would require that money in the account be expended by the ~~Secretary of the Ocean Protection Council~~ *department*, upon appropriation by the Legislature, exclusively to fund specified projects and programs to improve lobster sustainability and management. The bill would create a 5-member Lobster Management Enhancement Advisory Committee to recommend to the ~~council~~ *department* projects and programs and budgets for the expenditure of account moneys, including a plan to prioritize expenditures. Those lobster management enhancement provisions would be repealed on January 1, 2016.

Existing law prescribes the construction and dimensions of a wire lobster trap.

This bill would revise the prescribed dimensions of wire lobster traps, and would add provisions relating to the use of a wire to hold the escape gap in place.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) California's spiny lobster fishery is an important component
- 4 of California's marine ecosystem, as well as an important source
- 5 of jobs for California fishermen and fisherwomen and food for
- 6 consumers.
- 7 (b) California's commercial and recreational lobster fishermen
- 8 and fisherwomen, primarily through associations, should participate
- 9 in the development and implementation of new approaches to
- 10 managing lobster fishing. Those approaches should be designed
- 11 to ensure economical and sustainable fishing.
- 12 (c) California's lobster fishing associations will greatly benefit
- 13 from an established mechanism that will provide a steady source
- 14 of funds for projects that promote the long-term sustainability and
- 15 improved management of the California spiny lobster fishery.
- 16 SEC. 2. Section 8254 of the Fish and Game Code is amended
- 17 to read:
- 18 8254. (a) Lobsters shall not be taken for commercial purposes
- 19 except under a valid lobster permit issued to that person that has

1 not been suspended or revoked, subject to regulations adopted by
2 the commission.

3 (b) Every person who takes, assists in taking, possesses, or
4 transports lobsters for commercial purposes while on any boat,
5 barge, or vessel, or who uses or operates or assists in using or
6 operating any boat, net, trap, line, or other appliance to take lobsters
7 for commercial purposes, shall have a valid lobster permit.

8 (c) Except as provided in Section 8254.5, the permit fee for a
9 lobster permit is two hundred sixty-five dollars (\$265).

10 (d) The fee for a lobster crewmember permit is one hundred
11 twenty-five dollars (\$125).

12 (e) For the purposes of this section, it is prima facie evidence
13 that lobster is taken for commercial purposes if the possession of
14 lobster is more than three times the sport bag limit.

15 SEC. 3. Section 8254.5 is added to the Fish and Game Code,
16 to read:

17 8254.5. (a) ~~Notwithstanding~~ *In addition to the fee imposed*
18 *pursuant to subdivision (c) of Section 8254, commencing April*
19 *1, 2010, the permit fee for a lobster permit shall be five hundred*
20 *sixty-five dollars (\$565). Three hundred dollars (\$300) of the*
21 *permit fee is a surcharge and shall be known as the a person*
22 *described in subdivision (b) of Section 8254 shall also pay a three*
23 *hundred dollar (\$300) supplemental fee. The supplemental fee*
24 *shall be known as the Lobster Management Enhancement*
25 *Supplement. The department shall deposit Lobster Management*
26 *Enhancement Supplement revenues in the Lobster Management*
27 *Enhancement Account in the Fish and Game Preservation Fund*
28 *pursuant to Section 8262.*

29 (b) *Section 713 does not apply to the Lobster Management*
30 *Enhancement Supplement.*

31 ~~(b)~~

32 (c) This section shall become inoperative on March 31, 2015,
33 and, as of January 1, 2016, is repealed, unless a later enacted
34 statute, that becomes operative on or before January 1, 2016,
35 deletes or extends the dates on which it becomes inoperative and
36 is repealed.

37 SEC. 4. Article 5.5 (commencing with Section 8260) is added
38 to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code,
39 to read:

1 Article 5.5. Lobster Management Enhancement Supplement

2
3 8260. As used in this article:

4 (a) “Account” means the Lobster Management Enhancement
5 Account established in Section 8262.

6 (b) “Committee” means the Lobster Management Enhancement
7 Advisory Committee established pursuant to Section 8263.

8 ~~(c) “Council” means the Ocean Protection Council established~~
9 ~~in Section 35600 of the Public Resources Code.~~

10 8262. (a) Lobster Management Enhancement Supplement
11 revenues received by the department pursuant to Section 8254.5,
12 and any interest earned on those revenues, shall be deposited
13 ~~monthly~~ in the Lobster Management Enhancement Account, which
14 ~~is hereby established as a separate account of the California Ocean~~
15 ~~Protection Trust Fund in the State Treasury.~~ *is hereby established*
16 *in the Fish and Game Preservation Fund.* The money in the
17 account, upon appropriation by the Legislature, shall ~~be expended~~
18 ~~by the Secretary of the Ocean Protection Council~~ *be expended by*
19 *the department* exclusively for projects and programs to improve
20 lobster sustainability and management consistent with subdivision
21 (b). *The department shall maintain the internal accountability*
22 *necessary to ensure that expenditure of funds from the account is*
23 *consistent with the requirements and purposes of this article. The*
24 *department shall annually provide to the committee a full*
25 *accounting of expenditures from the account and make that*
26 *information available to the public.*

27 (b) The committee shall develop a plan that prioritizes
28 expenditures on projects and programs that support long-term
29 sustainability or improved management, or both, of the California
30 spiny lobster fishery, consistent with Section 35650 of the Public
31 Resources Code, including, but not limited to, all of the following:

32 (1) Obtaining Marine Stewardship Council sustainability
33 certification.

34 (2) Coordination and collaboration within the fishery to help
35 develop or improve new management approaches that optimize
36 catch per unit effort and create incentives for ecosystem
37 improvement.

38 (3) Repaying loans for lobster fishery management improvement
39 projects.

(4) Conducting research leading to informed and strategic management of the fishery.

~~(5) Planning and development~~ Preparation of a lobster fishery management plan.

~~(e) The Secretary of the Ocean Protection Council shall fund only projects and programs pursuant to this article that are consistent~~

(c) The director shall not fund any project or program pursuant to this article that the director determines to be inconsistent with the priorities identified pursuant to subdivision (b) and with this article.

(d) Department administrative overhead, collection, or other charges shall not exceed ~~5~~ 15 percent of the annual expenditures from the account.

~~(e) Council administrative overhead, collection, or other charges shall not exceed 5 percent of the annual expenditures from the account.~~

8263. (a) The Lobster Management Enhancement Advisory Committee is hereby created, consisting of five members, as follows.

(1) One member, with an alternate, representative of the state's commercial lobster fishermen and fisherwomen *or who is a biological scientist actively involved in lobster research and who is affiliated with a college or university within the state. A member appointed pursuant to this paragraph and his or her alternate shall be appointed by the director from licensed lobster permittees and scientists who have submitted their names for consideration.*

~~(2) Two members, each with an alternate, selected from the~~

(2) Three members, each with an alternate, appointed by the membership of the California Lobster and Trap Fishermen's Association. This subdivision does not prohibit persons selected pursuant to paragraph (1) from also being a member of the California Lobster and Trap Fishermen's Association.

~~(3) The Secretary of the Ocean Protection Council, or his or her designee.~~

~~(4)~~

(3) The director, or his or her designee.

~~(b) The~~ Except for a biological scientist member appointed pursuant to paragraph (1) of subdivision (a), the committee members described in paragraphs (1) and (2) of subdivision (a)

1 and their alternates shall hold a valid lobster permit and members
2 shall be elected by a majority of the holders of a valid lobster
3 permit to terms determined by a majority of the holders of a valid
4 lobster permit.

5 (e) ~~The committee members elected pursuant to paragraphs (1)~~
6 ~~and (2) of subdivision (a) or their alternates shall receive actual~~
7 ~~and necessary traveling expenses incurred in conformance with~~
8 ~~reimbursement procedures established by the council. Travel~~
9 ~~expenses shall be paid from the account. permit.~~

10 (d)
11 (c) A vote by the committee is not valid unless all five members
12 or their alternates are present to vote.

13 (e)
14 (d) The committee shall recommend to the ~~council~~ department
15 projects and programs consistent with subdivision (b) of Section
16 8262 and budgets for the expenditure of moneys received pursuant
17 to this article.

18 (f) ~~The council shall prepare and submit to the committee and~~
19 ~~to the Legislature an annual report that includes both of the~~
20 ~~following:~~

21 (1) ~~An accounting of funds deposited into and expended from~~
22 ~~the account, including, but not limited to, the number of permits~~
23 ~~sold, revenues generated, moneys expended, and the status and~~
24 ~~actual project expenditures of projects or programs funded pursuant~~
25 ~~to this article.~~

26 (2) ~~A statement of the council's reasoning in cases in which the~~
27 ~~council does not follow committee recommendations made~~
28 ~~pursuant to subdivision (e).~~

29 (g) ~~In furtherance of the purposes articulated in subdivision (b)~~
30 ~~of Section 8262, the council may contract with, or offer grants to,~~
31 ~~nonprofit commercial fishery organizations.~~

32 (h) ~~The council may act as fiscal agent for the committee.~~

33 8264. The ~~council~~ department may receive funds for deposit
34 in the account, for purposes of this article, from sources other than
35 the sale of commercial fishing lobster permits, including, but not
36 limited to, grants from the federal government, grants from private
37 foundations, money disbursed from court settlements, and
38 donations and bequests from individuals. Additional funds received
39 pursuant to this section shall not be deposited in the account unless
40 the person or entity providing the funds specifically designates in

1 writing, prior to or at the time of transmittal of the funds to the
2 ~~council~~ department, that the funds are intended solely for deposit
3 to that account.

4 8265. This article shall remain in effect only until January 1,
5 2016, and as of that date is repealed, unless a later enacted statute,
6 that is enacted before January 1, 2016, deletes or extends that date.

7 *SEC. 5. Section 9010 of the Fish and Game Code is amended*
8 *to read:*

9 9010. (a) Subject to Article 5 (commencing with Section 8250)
10 of Chapter 2, spiny lobster may be taken with lobster traps under
11 a lobster permit issued pursuant to Section 8254.

12 (b) Notwithstanding Sections 8660 and 8665, lobster traps may
13 be used in any area of the state not otherwise closed to the taking
14 of lobsters up to, but not closer than, 75 feet of any private pier,
15 wharf, jetty, breakwater, or dock.

16 (c) A wire lobster trap shall be built of rectangular wire mesh
17 with inside mesh measurement not less than $1\frac{7}{8}$ inches by $3\frac{7}{8}$
18 $3\frac{1}{2}$ inches, the ~~$3\frac{7}{8}$ inch~~ $3\frac{1}{2}$ inch measurement to be parallel to
19 the floor of the trap. A wire lobster trap shall be fitted with at least
20 one rigid rectangular escape gap with ~~an inside measurement~~
21 *vertical measurement* not less than $2\frac{3}{8}$ inches ~~by at all points and~~
22 *an inside horizontal measurement of not less than* $11\frac{1}{2}$ inches *at*
23 *all points*. The *horizontal sides of the escape gap* shall be located
24 parallel to, and the escape gap within ~~two~~ $2\frac{3}{8}$ inches of the floor
25 on any outside wall of, the rearmost chamber of the lobster trap
26 and shall be clearly accessible to the lobsters.

27 (d) *Notwithstanding subdivision (c), wire may be used to hold*
28 *the escape gap in place that reduces the inside vertical or*
29 *horizontal measurement of the escape gap specified in subdivision*
30 *(c), but only if all of the following requirements are met:*

31 (1) *The overall diameter of the wire, including any coating on*
32 *the wire, shall measure less than the diameter of 10 gauge wire.*

33 (2) *A maximum of one wire wrap shall be located on each*
34 *vertical side of the escape gap.*

35 (3) *A maximum of two wire wraps shall be located on the bottom*
36 *horizontal side of the escape gap.*

37 (4) *Wire shall not be used on the top horizontal side of the*
38 *escape gap.*

39 (5) *Each wire shall be tightly wrapped against the inside surface*
40 *of the escape gap and shall not pass over the inside surface more*

1 *than once. As used in this paragraph, “tightly wrapped” means*
2 *no space exists at any time between the wire and the inside surface*
3 *of the escape gap.*
4 ~~(d)~~
5 (e) A lobster trap constructed of lath or other material shall have
6 an opening to allow a means of escape along the full length of one
7 side of the rearmost chamber. The escape opening shall be of a
8 spacing of not less than $2\frac{3}{8}$ inches, and the spacing shall be located
9 parallel to, and within ~~two~~ $2\frac{3}{8}$ inches of, the floor of the lobster
10 trap.